REMARKS

The Examiner's Action dated May 18, 2004 has been received and its contents carefully considered.

In this Amendment, Applicant has amended Claims 1-23, 27 and 29, and has added new Claims 30 and 31. Claims 1, 11, 18, 23, 27 and 29-31 are the independent claims. Claims 2-6 and 8-10 depend upon Claim 1, whilst Claim 7 depends upon Claim 6. Claims 12-14 and 16 depend upon Claim 11, whilst Claim 15 depends upon Claim 14. Claims 19 and 21-22 depend upon Claim 18, whilst Claim 20 depends upon Claim 19. Claims 24-26 depend on Claim 23 and Claim 28 depends on Claim 27. Claims 1-31 remain pending in the application with changes thereto as noted above. For at least the following reasons, it is submitted that this application is in condition for allowance.

Initially, if there are any irregularities in the format of this Amendment, it would be greatly appreciated if Applicant's Counsel would be so advised. Furthermore, Applicant appreciates the Examiner's courtesy and suggestions regarding this application. In order to expedite the prosecution of this application, Applicant has substantially complied with the Examiner's suggestions.

a. Rejection of Claims 18, 19, 22, and 29 under 35 U.S.C. § 103(a)

The Examiner rejected Claims 18, 19, 22 and 29 under 35 U.S.C. § 103(a). The Examiner asserts: "said claims are obvious over the Poettgen teaching in that it would have been obvious to one skilled in the art to employ nonwoven surface layers on both sides of the laminate drape in order to produce a dual-sided absorbent and soft drape".

In response, Applicant has amended the preamble of each one of Claims 18-22 and 29 by deleting the phrase "blackout and thermal" before the word "drapery", and amended the independent Claims 18 and 29 to more clearly define that in the drapery: "said combination of said light impermeable metalized film, said first layer of fabric and said second layer of fabric providing a blackout and thermal drapery", without introducing any new matter. These Amendments are intended to more patentably distinguish Applicant's Claims over the cited prior art, and no reduction in scope of the remaining claims is intended. Stated simply, these Amendments to Claims 18-22 and 29 now make it clear that Applicant's Claims 18-22 and 29 are specifically directed to a blackout and thermal drapery. Since the preamble of Claims 19-22 have also been amended to conform to independent Claim 18 and Claims 19-22 depend on Claim 18, these Claims have all the limitations of Claim 18.

Applicant respectfully traverses the Examiner's rejection of Claims 18, 19, 22 and 29 under 35 USC §103 (a). As noted in Applicant's response to the previous Office Action, Poettgen is a "reflective surgical drape" whose purpose is to "reduce the rate of heat loss in human patients during a variety of surgical procedures" which in no way resembles a blackout and thermal drapery as now more clearly defined in independent Claims 18 and 29 and dependent Claims 19-22 (so that Poettgen is truly non-analogous art). Clearly, Poettgen has no reason to define Applicant's blackout drapery based on Poettgen's disclosure of "a reflective surgical drape". Poettgen has neither motivation, nor suggests, nor teaches Applicant's blackout and thermal drapery as defined in Claims 18-22 and 29, and teaches away from Applicant's disclosure. For the foregoing reasons, it is respectfully submitted that the invention defined by Claims 18-22 and 29 are not obvious and withdrawal of the rejection of Claims 18-22 and 29 under 35 U.S.C. § 103 (a) is believed in order and courteously requested.

b. Rejection of Claims 11, 13-17, and 27 under 35 USC §103 (a)

The Examiner rejected Claims 11, 13-17, and 27 under 35 USC 103(a) as being unpatentable over WO 83/00356 issued to Ryan et al. in view of US 5,902,753 issued to DeMott et al. and US 5,741,582 issued to Leaderman et al., as set forth in section 8 of the last Office Action.

In response, Applicant has amended the preamble of each one of Claims 11, 13-17 and 27 by deleting the phrase "blackout and thermal" before the word "drapery", and amended the independent Claims 11 and 27 to more clearly define that in the drapery: "said combination of said light impermeable metalized film, said fabric and said layer of acrylic latex providing a blackout and thermal drapery.", without introducing any new matter. Applicant has also Amended Claims 11, 14, 16 and 27 to add the feature that the metalized film is "light impermeable", without introducing any new matter, therefore clearly patentably distinguishing over the combination of the Examiner's cited prior art (see above). Claim 16 has been amended to correct the spelling of the word "metalalized" to "metalized". Stated simply, these Amendments to Claims 11, 13-17 and 27 now make it clear that Applicant's Claims 11, 13-17 and 27 are specifically directed to a blackout and thermal drapery in which the metalized film is light impermeable. Applicant has also amended the preamble to dependent Claim 12 to conform to independent Claim 11. Since the preamble of dependent Claims 12-22 have been amended to conform to independent Claim 11, and Claims 12-22 depend on Claim 11, these Claims have all the limitations of Claim 11. These amendments are intended to more patentably distinguish Applicant's Claims over the cited prior art and, therefore, no reduction in scope of the remaining claims is intended.

Applicant respectfully traverses the Examiner's rejection of Claims 11, 13-17, and 27 under 35 USC §103 (a). As noted in Applicant's response to the previous Office Action, Ryan clearly states: "The material of the invention is

eminently suitable for use in the manufacture of roller-blinds in which case the substrate is flexible and the whole of one major surface of the substrate is wholly overlaid by the metallic material and the metallic material is wholly overlaid by the said second layer." (Abstract), and further Ryan states: "In summer, it should be pulled down sufficiently to block out direct sunlight yet allowing natural light to enter the building. In winter, the blind should be fully drawn at night to minimize heat losses and raised in the day to allow the sun to warm up the building." (page 10, lines 7-11). Therefore, Ryan in no way discloses or resembles Applicant's blackout and thermal drapery (Ryan is truly non-analogous art). Ryan does not suggest or teach a blackout and thermal drapery. Similarly, DeMott is "a barrier fabric composite especially suited to use for stain-resistant fabrics for institutional or commercial settings such as hospitals, nursing homes, and restaurants", which in no way resembles a blackout and thermal drapery (this is also non-analogous art) and does not comprise a light impermeable metalized film as defined by the Applicant (Claim 11). Similarly Leaderman is "a blackout drapery lining (not a blackout and thermal drapery) including a first textile material, a first adhesive layer having an opaque pigment adhered to the first textile material and a second textile material adhered to the first adhesive layer, with the possibility of multiple adhesive layers having further pigments sandwiched between the first textile material and the second textile material." (see Figs. 2-4, and col. 2, 49-67, col. 3, lines 1-67 and col. 4, lines 1-8), which in no way resembles Applicant's claimed blackout and thermal drapery (see independent Claim 11). Leaderman achieves a blackout effect for a drapery lining by providing an adhesive having a pigment, rather than using a metalized film. Leaderman's own disclosure shows absolutely no motive whatsoever to accomplish a blackout effect using a light impermeable metalized film. The issue of whether Applicant has not stated that the acrylic latex is unpigmented is rendered moot since Applicant now clearly defines the blackout and thermal drapery

comprises a "light impermeable metalized film" so that whether the acrylic latex is pigmented or not makes no difference to the blackout result which Applicant has achieved with a light impermeable metalized film. Leaderman alone or the three way combination of Leaderman, Ryan and DeMott clearly do not achieve such a result with a light impermeable metalized film. Applicant asserts the blackout effect results from the light impermeable metalized film as defined in Claim 11 (and also Claim 27). Applicant respectfully notes that at the time of Applicant's invention, DeMott and Leaderman in combination with the teachings of Ryan did not suggest or teach Applicant's blackout and thermal drapery having the unique combination of a light impermeable metalized film, fire-retardant (or non fire-retardant) acrylic latex and fabric as specifically defined by the Applicant in independent Claims 11 and 27 and dependent Claims 13-17 which depend from independent Claim 11. As to the rejection of independent Claim 27, since independent Claim 27 is a method claim reciting how the features of independent Claim 11 are combined in a method to make Applicant's blackout and thermal drapery, it follows that similar arguments apply to Claim 27 as discussed above for independent Claim 11.

In view of the foregoing, it is apparent that DeMott and Leaderman in combination with Ryan, do not teach, suggest, or render obvious the unique combination now recited in pending independent Claims 11and 27 and dependent Claims 13-17 which depend from independent Claim 11 and therefore incorporate all the features of independent Claim 11. Accordingly, it is respectfully requested that the Examiner's rejection of Claims 11, 13-17 and 27 under 35 U.S.C. § 103(a) be withdrawn.

c. Rejection of Claims 1, 4-9, and 23 under 35 USC §103 (a)

The Examiner rejected Claims 1, 4-9, and 23 under 35 USC 103(a) as being unpatentable over the three references combination of US 4,790,591

issued to Miller in view of US 5,902,753 issued to DeMott et al. and US 5,741,582 issued to Leaderman et al., as set forth in section 8 of the last Office Action.

In response, Applicant has amended the preamble of each one of Claims 1 and 23 by deleting the phrase "blackout and thermal" before the words "drapery lining", and amended the independent Claims 1 and 23 to more clearly define that in the drapery lining: "said combination of said metalized film, said first layer of acrylic latex and said second layer of acrylic latex providing a blackout and thermal drapery lining.", without introducing any new matter. Applicant has also Amended the preamble of dependent Claims 2-10 by deleting the phrase "blackout and thermal" before the words "drapery lining" to conform to independent Claim 1, without introducing any new matter. These Amendments are intended to more patentably distinguish Applicant's Claims over the cited prior art and no reduction in scope of the remaining Claims is intended. Stated simply, these Amendments to Claims 1, 2-10 and 23 now make it clear that Applicant's Claims 1, 2-10 and 23 are specifically directed to a blackout and thermal drapery lining which is a combination of the metalized film, the first layer of acrylic latex and the second layer of acrylic latex. Since the preamble of dependent Claims 2-10 have also been amended to conform to independent Claim 1 and dependent Claims 24-26 depend on independent Claim 23, these dependent Claims have all the limitations of their respective independent Claims.

Applicant respectfully traverses the Examiner's rejection of Claims 1, 4-9 and 23 under 35 USC §103 (a). As noted in Applicant's response to the previous Office Action, Miller is "a removable screen adapted to be attached to the interior of a vehicular windshield and configured to cover and correspond thereto for inhibiting the transfer of heat, solar energy, ultraviolet radiation and the like through the windshield into the interior of the associated vehicle." (Abstract). Miller is clearly not a drapery lining, is not motivated to make a

drapery lining, and in no way resembles Applicant's defined blackout and thermal drapery lining (this is clearly non-analogous art). Furthermore, neither DeMott nor Leaderman describe nor show in any way the use of a metallized film. Applicant respectfully notes that at the time of Applicant's invention, DeMott and Leaderman in combination with the teachings of Miller did not suggest or teach Applicant's blackout and thermal drapery lining having the unique combination of a metalized film, a first layer of fire-retardant (or non fire-retardant) acrylic latex coated to a first side of the metalized film; and a second layer of fire-retardant (or non fire-retardant) acrylic latex coated to a second side of the metalized film as specifically defined by the Applicant in independent Claims 1 and 23 and dependent Claims 4-9 which depend from independent Claim 1. The issue of whether Applicant does not exclude the presence of said air pockets is rendered moot since Applicant now clearly defines the blackout and thermal drapery lining comprises a combination of said metalized film, said first layer of acrylic latex and said second layer of acrylic latex,so that whether the air pockets are present or not makes no difference to the result of a blackout and thermal drapery lining which Applicant has achieved (see Claim 1) with the combination of the metalized film, the first layer of acrylic latex and the second layer of acrylic latex, which combination is not shown, taught or suggested in the three way combination of Miller, DeMott and Leaderman. Both DeMott and Leaderman as applied to Miller teach away from the use of a metalized film to provide a combination blackout and thermal drapery lining. As to the rejection of independent Claim 23, since independent Claim 23 is a method claim reciting how the features of independent Claim 1 are combined in method form to make Applicant's blackout and thermal drapery lining, it follows that similar arguments apply to Claim 23 as discussed above for independent Claim 1. Stated simply, Applicant uniquely and patentably claims a blackout and thermal drapery lining in a completely non-

obvious way by defining the features of the combination of the metalized film, the first layer of acrylic latex and the second layer of acrylic latex.

In view of the foregoing, it is apparent that DeMott and Leaderman in combination with Miller, do not teach, suggest, or render obvious the unique combination now recited in pending independent Claims 1 and 23 and dependent Claims 4-9 which depend from independent Claim 1 and therefore incorporate all the features of independent Claim 1. Accordingly, it is respectfully requested that the Examiner's rejection of Claims 1, 4-9 and 23 under 35 U.S.C. § 103(a) be withdrawn.

d. Rejection of Claims 2, 3, 12, 24, 25, and 28 under 35 USC §103 (a)

The Examiner rejected Claims 12 and 28 under 35 USC 103(a) as being unpatentable over the four reference combination of the cited references Ryan, DeMott, and Leaderman as applied to claim 11 above, and in further view of US 4,560,245 issued to Sarver. The Examiner also rejected Claims 2, 3, 24, and 25 under 35 USC 103(a) as being unpatentable over the four reference combination of the cited references Miller, DeMott, and Leaderman as applied to claim 1 above, and in further view of US 4,560,245 issued to Sarver.

In response, Applicant has amended the preamble of dependent Claims 2 and 3, without introducing any new matter, to conform to independent Claim 1 and have all the limitations of Claim 1 as discussed above. Applicant has also amended the preamble of dependent Claim 12, without introducing any new matter, to conform to independent Claim 11 and have all the limitations of Claim 11 as discussed above. Dependent Claims 24 and 25 conform to amended independent Claim 23 as discussed above, while dependent Claim 28 conforms to amended independent Claim 27 as discussed above.

Applicant respectfully traverses the Examiner's rejection of Claims 2, 3, 12, 24, 25, and 28 under 35 USC §103 (a). As noted in Applicant's response to the previous Office Action, Sarver is "A special heat transfer inhibiting curtain for demountable positioning in juxtaposed coextending relationship with the interior surface of the windshield of a vehicle to reduce interior heat build-up in the vehicle when it is not operated." (Abstract). Sarver in no way resembles or is motivated to make either of Applicant's combination blackout and thermal drapery lining or Applicant's combination blackout and thermal drapery as defined respectively in independent Claims 1 and 11 (this is non-analogous art).

In view of the foregoing, it is apparent that Ryan, DeMott, and Leaderman in further view of Sarver, and Miller, DeMott, and Leaderman in further view of Sarver, do not teach, suggest, or render obvious the unique combination now recited in pending dependent Claims 2 and 3 which depend from independent Claim 1 and therefore incorporate all the patentable features of Claim 1, pending dependent Claim 12 which depends from independent Claim 11 and therefore incorporates all the claimed features of independent Claim 11, pending dependent Claims 24 and 25 which depend from independent Claim 23 and therefore incorporate all the claimed features of Claim 23, and pending dependent Claim 28 which depends from independent Claim 27 and therefore incorporates all the claimed features of Claim 27. Accordingly, it is respectfully requested that the Examiner's rejection of Claims 2, 3, 12, 24, 25, and 28 under 35 U.S.C. § 103(a) be withdrawn.

e. New Claims 30 and 31 and Objection to Claims 10 and 26

The Examiner objected to Claims 10 and 26 as being dependent on a rejected base claim, but stated these claims would be allowable if rewritten in

independent form including all the limitations of the base claim and any intervening claims.

In response, Applicant has added independent Claims 30 and 31 without introducing any new matter.

Claim 30 is an independent Claim which defines: "A blackout and thermal drapery lining comprises, in combination: a metalized film having a first side and a second side; a first layer of acrylic latex having a first side and a second side, the second side of the first layer of acrylic latex is coated to the first side of the metalized film; a second layer of acrylic latex having a first side and a second side, the first side of the second layer of acrylic latex is coated to the second side of the metalized film; and a drapery fabric coupled to the first side of the first layer of acrylic latex.", in compliance with the Examiner's requirement that Claim 10 be rewritten in independent form including all the limitations of the base claim and any intervening claims.

Claim 31 is an independent Claim which defines: "A method for manufacturing a blackout and thermal drapery lining, comprises, in combination, the steps of: providing a film having a first side and a second side; metalizing the first side of the film and the second side of the film; coating a first layer of acrylic latex to the first side of the metalized film; coating a second layer of acrylic latex to the second side of the metalized film; providing a fabric; and coupling the fabric to the first layer of acrylic latex.", in compliance with the Examiner's requirement that Claim 26 be rewritten in independent form including all the limitations of the base claim and any intervening claims.

Accordingly, it is respectfully submitted that the Examiner's objection to Claims 10 and 26 has been overcome, and Applicant courteously requests allowance of new independent Claims 30 and 31.

Applicant has now made an earnest attempt to place this application in condition for allowance. Therefore, Applicant respectfully requests, for the reasons set forth herein and for other reasons clearly apparent, allowance of Claims 1-31 now on file and that the application be passed to issue.

Should the Examiner feel that a telephone conference would help to expedite the prosecution of the application, the Examiner is hereby invited to contact the undersigned counsel to arrange for such an interview.

Since two new independent Claims have been added please deduct $86 from our Deposit Account No. 23-0830. If there are any further fees incurred by this Amendment Letter, please also deduct them from our Deposit Account No. 23-0830.

Respectfully submitted,

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